

MINUTES OF JULY 18, 2016

The regular meeting of the Sussex County Board of Adjustment was held on Monday, July 18, 2016, at 7:00 p.m. in the County Council Chambers, 2 The Circle, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Dale Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, Mr. Brent Workman, and Mr. Norman Rickard, with Mr. James Sharp – Assistant County Attorney, and staff members Ms. Janelle Cornwell – Planning and Zoning Manager and Mrs. Jennifer Norwood – Recording Secretary.

The Pledge of Allegiance was led by Mr. Callaway.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda as circulated. Motion carried 5 – 0.

Mr. Sharp read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

PUBLIC HEARINGS

Case No. 11801 – Allen Harim Farms, LLC – seeks a variance from the front yard setback requirement (Section 115-25C of the Sussex County Zoning Code). The property is located on the southeast corner of Woodland Ferry Road and Ellis Mill Road. 911 Address: 4526 Woodland Ferry Road, Seaford. Zoning District: AR-1. Tax Map No.: 5-31-15.00-11.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.

Barry Neal was sworn in to testify about the Application. Craig Aleman, Esquire, presented the case on behalf of the Applicant.

Mr. Aleman stated that the Applicant is requesting a variance of 7.6 feet from the forty (40) feet front yard setback requirement for an existing dwelling; that the Property is unique; that the Property has a dwelling, existing poultry houses and large shed located thereon; that the existing dwelling is located on a foundation and is serviced by well and septic; that the Applicant would suffer an exceptional practical difficulty if required to move the dwelling; that the Applicant relocated a dwelling to this Property; that there is a limited space on the Property to locate the dwelling; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that the location of the septic system and existing chicken houses limit where the dwelling could be placed; that the Applicant relied on contractors to obtain the building permit and place the dwelling in compliance with the Sussex County Zoning Code; that the Applicant did not create the exceptional practical difficulty; that the variance will not alter the essential character of the neighborhood; that the surrounding area is mainly farmland; that the use will not be detrimental to the public welfare; that the nearby areas are agricultural lands or wooded; that the

Applicant owns nearby property as well; that the variance is the minimum variance necessary to afford relief; and that the variance is the least modification of the regulation at issue.

Barry Neal, under oath, affirmed the statements made by Mr. Aleman and testified that he represents Regional Builders; that the dwelling was relocated from a property in Maryland; that an error was made when measuring from the property line; that it would cost the Applicant well over \$10,000 to bring the Property into compliance; that there were two (2) dwellings on the Property that have been removed; that the poultry farm has existed for a long time and the dwelling is for the Applicant's employee; that the septic system limits where the house can be located; and that there is approximately 7 feet from the front property line to the edge of paving.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Mills moved to approve Variance Application No. 11801 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The existing farm and septic system make this Property unique;
2. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
3. The variance is necessary to enable reasonable use of the Property;
4. The exceptional practical difficulty was not created by the Applicant;
5. The variance will not alter the essential character of the neighborhood;
6. The use will not be detrimental to the public welfare; and
7. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call: Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 11802 – James Freeman – seeks variances from the front yard and side yard setback requirements (Section 115-34B of the Sussex County Zoning Code). The property is located on the south side of Trout Terrace North approximately 0.34 miles east of Lighthouse Road. 911 Address: 36964 Trout Terrace North, Selbyville. Zoning District: MR-RPC. Tax Map No.: 5-33-12.00-771.00.

Ms. Cornwell presented the case and read one (1) letter in opposition of the Application into the record and stated that the Office of Planning and Zoning received no correspondence in support of the Application.

James Freeman was sworn in to testify about the Application. Michael McGroerty, Esquire, presented the case and submitted exhibits for the Board to review.

Mr. McGroerty stated that the Applicant is requesting a variance of 7.1 feet from the thirty (30) feet front yard setback requirement for a proposed addition and a variance of two (2) feet from the ten (10) feet side yard setback requirement for an existing outside shower.

Mr. Freeman testified that he has undergone numerous surgeries over the years to his back, shoulder, knees, and foot and will have reconstructive foot surgery soon that will require the use of a wheelchair; that the multiple surgeries have been related to injury in the Vietnam War; that the proposed addition for the garage was initially to provide storage for his boat but, due to his surgery, the addition is needed to provide him the ability to navigate around the garage in a wheelchair; that the size of the existing garage does not allow enough space for a passenger to exit a vehicle and enter the dwelling from the interior of the garage; that the exterior of the proposed addition will match the exterior of the existing dwelling; that he did not create the need for the variance; that the garage cannot be expanded in a different direction because the wall of the adjoining house is a structural wall and a bathroom and laundry room are located on the other side of the wall; that he is unable to use the second floor of the dwelling due to his disability; that he has submitted an application to the Swann Cove Architectural Review Committee; that he can reduce the size of the addition from 10.5 feet as shown on the survey to 8 feet; that the proposed addition will not create parking issues as there will be room for four (4) cars to park on his lot; that he parked three (3) cars on his neighbor's lot recently after receiving permission from his neighbor; that there are parking problems in the neighborhood; that the existing garage measures 20 feet by 19 feet; that between the edge of paving of the adjacent road and the front property line is 4 feet of grass, a sidewalk, and a 1.5 feet grass strip; that there is approximately 7.5 feet between his front property line and the edge of paving; that he purchased the Property as it currently exists; that he has not made any changes to the Property; that he did not create the exceptional practical difficulty; that the existing outside shower was located on the Property when he purchased the lot; that he has received no complaints about the shower; that he was unaware that the outside shower encroached into the setback area; and that the guest house has no cooking facilities.

Mr. McGroerty stated that the Applicant's medical condition has created the exceptional practical difficulty; that the Applicant also did not build the house or the garage; that the size of the existing garage limits access from the garage to the interior of the dwelling because a parked vehicle blocks access to the house; that, once parked, the Applicant has to leave the garage and walk outside the garage to access the dwelling; that the Applicant's medical problems further complicate the Applicant's ability to use the garage; that the issue with the garage is its lack of depth; that the proposed garage addition will allow him to access the dwelling from the interior of the garage; that the Applicant will still have ample parking even after the garage is expanded; and that the Applicant would like to retain the shower.

Mary Brennan was sworn in and testified in opposition to the Application and testified that she is the President of the Homeowners Association; that the Homeowners Association is opposed to the proposed 10.5 feet addition; that there was no discussion of an eight (8) feet addition; that the Association has made no promises to the Applicant that the proposed addition would be approved by the Association; that the neighbors are in opposition to the Application; that the neighbors are concerned that the garage will not conform to the neighborhood and the addition will create parking problems; that the proposed addition will extend out further than other

structures in the neighborhood; that the Applicant only mentioned the garage would be used for storage of an antique car and boat; that the medical reason for the garage was never discussed with the Association; and that the garages in the neighborhood are small.

Tom Fowler was sworn in and testified in opposition to the Application and testified that he is the head of the Architectural Review Board; that the Applicant had no discussion prior to purchasing the Property about the ability to add on to the existing dwelling; that 2 to 4 feet extensions have been approved in the past by the Association but those additions met setback requirements; that the smaller additions did not encroach or protrude farther than the existing dwellings in the neighborhood; that the proposed addition was only discussed to store a boat and that the Applicant's medical needs were not discussed; that an addition measuring 8 feet deep would accommodate the Applicant's boat with the motor removed; that he is able to park a van in his garage; that his garage measures 20 feet by 19 feet; that he believes that he would be able to get a wheelchair out of his van; and that he believes the garage could accommodate a ramp but not allow for work bench space.

In rebuttal, Mr. Freeman testified that he meets with his doctor this week in reference to the pending surgery; that the addition was initially for his boat and antique car but the reason for the addition has changed due to his medical condition; that the garage is wide enough to accommodate a boat and a car but the garage is not deep enough; that, if he was required to install a ramp, he could probably only fit the car in the garage; that the garage is 21 feet wide by 19 feet deep; that he believes he will need at least 8 feet to accommodate a vehicle and ramp in the garage; and that the required ramp will be approximately 3 to 4 feet from the wall.

Mr. McGroerty stated that the Applicant needs the 8 feet addition; and that the addition of 10.5 feet would allow the Applicant to store the boat with the motor attached.

The Board found that no parties appeared in support of the Application.

The Board found that five (5) parties appeared in opposition to the Application.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the case be **tabled until August 1, 2016**. Motion carried 5 – 0.

The vote by roll call: Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11803 – TAC Beacon I, LLC – seek a special use exception to use a manufactured home type structure as a sales center (Sections 115-32A and 115-210A(1) of the Sussex County Zoning Code). The property is located on the south side of Clubhouse Road and on the west side of Main Street and Banks Road. 911 Address: None Available. Zoning District: MR. Tax Map No.: 1-34-17.00-170.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.

Tim Green and Robert Sipple were sworn in and testified requesting a special use exception to place a manufactured home type structure for a sales center.

Mr. Sipple testified that he is a representative of TAC Beacon I, LLC, which is the owner and developer of the Property; and that the manufactured home type structure will be used as a sales center.

Mr. Green testified that he is a representative of Schell Brothers; that Solitudes on White Creek is a new development and the proposed sales office will service this new development; that the development will consist of 119 single family residential lots; that site work for the development has begun; that Schell Brothers plans to begin building homes in December; that the proposed sales office is needed to begin sales in August; that the site work is not complete for the construction of the permanent sales center; that the permanent sales center will not be constructed until November 2016; that the Applicant seeks approval for use of the temporary sales center for one (1) year; that the use will not substantially adversely affect the uses of the neighboring and adjacent properties; that the temporary sales center will have a clean appearance which will complement the surrounding area; that the facility is being refurbished; that the unit will be placed on Lot 1; that all setback requirements will be met; that the lot will be landscaped; that an enclosed holding tank will be placed under the unit and will not be visible; that the tank will be pumped out on an as needed basis; that the temporary sales office will be removed once the permanent sales center is complete; that the hours of operation of the sales center will be Monday through Saturday, 10:00 a.m. to 5:00 p.m. and Sundays, 11:00 a.m. to 5:00 p.m.; and that there will be 1 or 2 employees at the site daily.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard moved to approve Special Use Exception Application No. 11803 for the requested special use exception for a period of one (1) year based on the record made at the public hearing because the use will not substantially adversely affect the uses of the neighboring and adjacent properties.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the special use exception be **granted for a period of one (1) year for the reasons stated**. Motion carried 5 – 0.

The vote by roll call: Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11804 – Gerald Richardson – seeks a variance from the minimum lot width for a parcel requirement (Section 115-34A of the Sussex County Zoning Code). The property is located on the south side of Omar Road approximately 0.3 miles west of Powell Farm Road. 911 Address: 34152 Omar Road, Frankford. Zoning District: MR. Tax Map No.: 1-34-11.00-89.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.

Gerald Richardson was sworn in and testified requesting a variance of 26.64 feet from the 150 feet lot-width requirement for a parcel; that he would like to subdivide the 2.89 acre parcel into 2 lots; that the existing road frontage of the Property will not allow him to meet the 150 feet lot width requirement for a parcel; that the narrowness of the lot makes the Property unique; that the Property is a large lot for one dwelling and cannot be subdivided without a variance; that the Property has 273 feet of road frontage; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that he did not create the exceptional practical difficulty; that the existing dwelling was built in 1932; that he did not create the original lot and he did not create the lot width requirement; that the proposed lot will not alter the essential character of the neighborhood; that the use will not impair the uses of the neighboring and adjacent properties; that there are numerous properties nearby which have road frontage of less than 150 feet; that the variance requested is the minimum variance to afford relief as the variance requested is all that is necessary to subdivide the lot; that the proposed lot will likely be for a family member; that the shed in the rear of the Property is not in compliance with the Sussex County Zoning Code and will be removed; that he has a letter of no objection from the Delaware Department of Transportation (“DelDOT”) for the entrance to the new lot; and that no variances will be needed to improve Parcel A if approved.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard moved to approve Variance Application No. 11804 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The narrowness of the Property makes it unique;
2. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call: Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11805 – James S. Crawford – seeks a variance from the side yard setback requirement (Section 115-25C of the Sussex County Zoning Code). The property is located on the west side of Sycamore Drive approximately 90 feet south of Angola Road. 911 Address: 22806 Sycamore Drive, Lewes. Zoning District: AR-1. Tax Map No.: 2-34-11.16-21.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.

James Crawford was sworn in and testified requesting a variance of 3.2 feet from the ten (10) feet side yard setback requirement on the north side for an existing dwelling; that he purchased a portion of an adjacent lot; that the survey completed for the boundary change showed that his dwelling encroaches into the side yard setback area; that he inherited the Property in 1996 from his mother; that his mother purchased the Property in 1980 as it exists; that many homes in the community are located on or beyond the building restriction line; that the Property cannot otherwise be developed in strict conformity without destroying a portion of the existing dwelling; that the exceptional practical difficulty was not created by the Applicant; that the variance does not alter the essential character of the neighborhood; that the variance requested is the minimum variance to afford relief; that he is seeking the variance so that he can keep the dwelling in its existing location; that the dwelling was built prior to 1968; that the encroachments went unnoticed until the recent boundary survey; and that there have been no complaints from the neighbors.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard moved to approve Variance Application No. 11805 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The circumstances and lot size make this Property unique;
2. The Applicant was unaware of the encroachment at the time he acquired the Property;
3. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
4. The exceptional practical difficulty was not created by the Applicant;
5. The variance will not alter the essential character of the neighborhood; and
6. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call: Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11806 – Brian Milmoë & Toni Milmoë – seek a variance from the rear yard setback requirement (Section 115-34B of the Sussex County Zoning Code). The property is located on the northwest side of Fresh Pond Road approximately 492 feet west of Hickman Road. 911 Address: 30900 Fresh Pond Road, Ellendale. Zoning District: MR. Tax Map No.: 1-34-9.00-1171.00.

Ms. Cornwell presented the case and read two (2) letters of support to the Application into the record and stated that the Office of Planning and Zoning received no correspondence in opposition to the Application.

Brian Milmo was sworn in and testified requesting a variance of four (4) feet from the ten (10) feet rear yard setback requirement for a proposed four-season room; that the rear yard of the Property is adjacent to the community swimming pool; that the Property is shallow and small; that four of the six model homes offered by the builder could not fit on the lot within the building envelope; that the builder did not place the dwelling at the front setback line thereby limiting the ability to build in the rear yard; that other lots in the neighborhood are large enough to accommodate such addition; that the sunroom is to be used for large gatherings; that the sunroom would measure 14 feet by 18.7 feet; that a sunroom could be built in compliance with the Sussex County Zoning Code but would preclude the reasonable use of that area as a gathering place for meals with use of a table owned by the Applicant for more than 20 years; that the Applicants prefer to build a room measuring 16 feet by 18.7 feet but the room measuring 14 feet by 18.7 feet will accommodate the Applicants' needs; that the Property was the only available lot in the community; that the builder offered a deck or rear porch option but the Applicants declined that option because they knew they needed a four season room for the large gathering space; that the Applicants were informed by the builder's representatives that they could build a deck or screen porch up to 5 feet from the rear property line and only learned of the rear yard setback requirement after receiving a survey at closing; that the variance will not alter the essential character of the neighborhood; that the Property is adjacent to common areas which include the community's swimming pool, pool house, and mechanical room; that the improvement is consistent with other improvements in the neighborhood; that the proposed addition will not impair the uses of neighboring properties; that there will be no detriment to the public welfare; that the variance requested is the minimum variance necessary to accommodate the Applicants' needs and table; that the Applicants' mother will likely be moving into the Property and the sunroom will provide her with personal space; that the dwelling is a 2 story dwelling consisting of 2,840 square feet; that the dwelling was built by NV Homes; that the Applicants were not interested in a screen porch or deck; that the Applicants knew that they had limited space in the rear yard to build; that the table which has been in the family for many years does not fit in the bump out; that the proposed addition will provide additional space needed to accommodate his large extended family and a large family table; that, unless the table is fully extended, it cannot accommodate their large family; that he has received poor response from NV Homes with issues with the home; that the Applicants have not considered adding space to the interior of the home to accommodate the room; that the table is located in the house but cannot be extended to accommodate the family members in the current space; that there is no dining room in the dwelling; that the area which was designed to by the builder to be used as a dining room is used by the Applicants as a home office but that room could not fit the Applicants' table; that there is a vinyl fence around the pool area; that the sunroom can be seen from the pool; that there are thirty-six (36) lots in the development; that there are three (3) lots similar in size to the Property; and that the neighboring lot to the north is shallower than the Property.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard moved to deny Variance Application No. 11806 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The variance is not needed to afford relief to the Applicants;

2. The Property can otherwise be developed in strict conformity with the Sussex County Zoning Code;
3. The Applicants knew the size of the building envelope when deciding to build their home; and
4. The exceptional practical difficulty is being created by the Applicants.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried that the variance be **denied for the reasons stated**. Motion carried 4 – 1.

The vote by roll call: Mr. Mills – yea, Mr. Hudson – nay, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11807 – Lahunt, LLC – seeks a variance from the front yard setback requirement (Section 115-34B of the Sussex County Zoning Code). The property is located on the south side of Diane Drive approximately 155 feet south of Arabian Acres Road. 911 Address: 29821 Diane Drive, Lewes. Zoning District: MR. Tax Map No.: 3-34-10.00-73.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.

Carlton Savage, of Pennoni Associates, Inc. and Jordan Ashburn were sworn in and testified requesting a variance of 10.2 feet from the twenty (20) feet front yard setback requirement for an existing dwelling.

Mr. Savage testified that Pennoni Associates, Inc., staked the Property for the location of the dwelling; that an error occurred when measuring because the measurements were based on a septic drawing; that the house was constructed ten (10) feet closer to the front yard property line than allowed; that the Property fronts on Diane Drive which is a private road; that the Property is unique because the lot is small as it only measures one-half acre; that the Property is serviced by a septic system which takes up a large portion of the Property; that the Applicant owns the other lots on Diane Drive; that the septic system is installed and the dwelling has been constructed; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that the exceptional practical difficulty was not created by the Applicant; that the house sits the same distance from Diane Drive as the house on the adjacent property which fronts on Arabian Acres Road but is also located on Diane Drive; that the error was discovered when the final survey was submitted to Sussex County for approval after construction of the house; that the variance requested is the minimum variance to afford relief; that the existing dwelling is in line with the dwelling on the corner lot; that the dwelling was completed in June 2016 and a final survey showed the encroachment; that the septic design plan did not show the setback requirements; that the surveyor's error has created a unique situation; that the lots on Diane Drive were created in the 1970s; that the Applicant relied on the surveyor who made a mistake; that the septic system is located near the middle of the Property; that the dwelling cannot be moved into compliance due to the location of the septic system; that Diane Drive gives access to all four (4) lots in the subdivision; and that there is approximately 10-15 feet from the edge of paving of Diane Drive to the front yard property line.

Mr. Ashburn testified that he relied on his surveyor to stake out the Property and the surveyor made an error; and that Diane Drive is a dead end road which may service lands to the east as well.

Mr. Savage submitted an exhibit booklet for the Board to review.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard moved to approve Variance Application No. 11807 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The size of the lot and the error made by the surveyor make this Property unique;
2. The exceptional practical difficulty was not created by the Applicant;
3. The variance will not alter the essential character of the neighborhood; and
4. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call: Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11808 – Elwood R. Gilger, Jr. & Kristy E. Gilger – seek variances from the rear yard setback requirement (Section 115-25C and 115-185F of the Sussex County Zoning Code). The property is located on the east side of Sycamore Drive approximately 647 feet south of Angola Road. 911 Address: 22865 Sycamore Drive, Lewes. Zoning District: AR-1. Tax Map: 2-34-11.20-81.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.

Elwood Gilger was sworn in and testified requesting a variance of 3.9 feet from the twenty (20) feet rear yard setback requirement for an existing porch and a variance of 3.7 feet from the five (5) feet rear yard setback requirement for an existing hot tub; that the Property is unique as the lot measures 50 feet by 100 feet, with the front yard being narrower than the rear yard; that the lot is wooded and has numerous large trees; that the hot tub and screen porch could not be relocated on the lot; that the rear yard is adjacent to a wooded common area in the subdivision; that the structures have been on the Property of twelve (12) years; that it would be a financial hardship to bring the structures into compliance; that a previous owner constructed the porch and hot tub deck; that he purchased the Property on June 18, 2015; that he has no plans for expansion of the dwelling, porch, or hot tub; that he has not made any changes to the structures since acquiring the Property; that the structures do not alter the character of the neighborhood or adversely affect property values; that the Homeowners Association and neighbors have no objection to the Application; and that the variances are the minimum variances to afford relief.

The Board found that one (1) party appeared in support of the Application.

The Board found that no parties appeared in opposition to the Application.

Mr. Mills moved to approve Variance Application No. 11808 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The irregular shape of the lot and that the structures were built in 2004 make this Property unique;
2. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
3. The variances are necessary to enable reasonable use of the Property;
4. The exceptional practical difficulty was not created by the Applicants;
5. The variances will not alter the essential character of the neighborhood; and
6. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call: Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 11809 – Stanley C. Vonasek – seeks a special use exception for a riding academy (Sections 115-23A and 115-210A(1) of the Sussex County Zoning Code). The property is located on the south side of Reynolds Pond Road approximately 1.1 miles west of Isaacs Road. 911 Address: 22146 Reynolds Pond Road, Ellendale. Zoning District: AR-1. Tax Map No.: 2-35-6.00-16.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.

Stanley Vonasek was sworn in and testified requesting a special use exception for a riding academy; that the 60 feet by 120 feet pole barn will be used as a private indoor horse riding arena; that the building is located in the center of the Property; that the Property is wooded except for the horse pastures; that the adjacent neighbors have no objection to the Application; that the building cannot even be seen by the neighboring properties; that the use will not substantially adversely affect the uses of the neighboring and adjacent properties; that the building is for personal use only; that the surrounding properties are rural; and that the building will not increase traffic in the area.

Barbara Manship was sworn in and testified she was concerned that the Applicant rides his horses on her nearby farm; that there are planks placed across the branch that allow the Applicant to ride on her property; and that she would like some assurance the Applicant will not continue to ride on her property.

In rebuttal, Mr. Vonasek testified that he has placed planks across the branch to ride horses on her property; that he rides along the field to access the nearby Nature Conservancy property; and that he is willing to write a letter to Ms. Manship promising not to continue riding on her property.

The Board found that no parties appeared in support of the Application.

The Board found that no parties appeared in opposition to the Application.

The Board found that one neighbor expressed concerns about trespasses.

Mr. Rickard moved to approve Special Use Exception Application No. 11809 for the requested special use exception based on the record made at the public hearing because the use does not substantially adversely affect the uses of the neighboring and adjacent properties.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the special use exception be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call: Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

OLD BUSINESS

Case No. 11789 – Louise Griffin & Lawrence Griffin – seek variances from the front yard, side yard and rear yard setback requirements (Sections 115-42B, 115-182B, 115-182D, 115-183C, 115-185D, and 115-185F of the Sussex County Zoning Code). The property is located on the southwest corner of 2nd Street and Midway Drive. 911 Address: 106 Midway Drive, Rehoboth Beach. Zoning District: GR. Tax Map: 3-34-13.00-35.00.

The Board reviewed the pictures submitted and discussed the case, which has been tabled since June 20, 2016.

Mr. Mills moved to approve in part and deny in part for Variance Application No. 11789. As part of the motion, the requested 1.7 foot variance from the side yard for existing steps, the 1.7 foot variance from the rear yard for an existing shed, the 1.9 foot variance from the side yard for the existing dwelling and the 1.5 foot variance from the front yard for existing steps should be approved based on the record made at the public hearing and for the following reasons:

1. The narrowness, shape, and size of lot make this Property unique;
2. The variances are necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicants;
4. These structures were located on the Property when the Applicants acquired the Property;
5. The variances will not alter the essential character of the neighborhood;

6. The use is not detrimental to the public welfare; and
7. The variances sought are the minimum variances necessary to afford relief.

As part of his motion, Mr. Mills moved that the 2.4 feet variance from the rear yard for an existing shed and the 6.4 feet variance from the side yard for an existing pool be denied based on the record made at the public hearing because the exceptional practical difficulty has been created by the Applicants.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the **2.4 feet variance and the 6.4 feet variance be denied and the remaining variances be granted for the reasons stated.** Motion carried 5 – 0.

The vote by roll call: Mr. Workman – yea, Mr. Rickard – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Meeting Adjourned 9:45 p.m.